

REMARKS

Please reconsider the application in view of the following remarks. Applicant thanks the Examiner for his thorough review of the application.

Preliminary Matters

Applicant notes that only claims 1-17 are addressed in the Office Action. Claims 18-24, which are also pending in this application, do not appear to have been addressed, nor are they listed among the pending claims on the cover sheet of the Office Action. Applicant respectfully requests clarification of this matter.

Disposition of Claims

Claims 1-24 are pending in this application. Claims 1, 8, and 18 are independent. The remaining claims depend, directly or indirectly, from these claims.

Rejections under 35 U.S.C § 102

Claims 1-7 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,167,655, issued to Kevin McCoy ("McCoy"). This rejection is respectfully traversed.

McCoy discloses an absorbent panty having one or more receptacles disposed adjacent the crotch area and configured to hold a cold pack. The panty is designed to absorb fluids and other discharge from the vaginal and anal area and relieve pain and discomfort associated with child birth and surgery.

The absorbent layer is located on the inner side of the panty (closer to the body of a wearer) to absorb blood, vaginal discharge, or other bodily fluids. The cold pack is located adjacent the outer side of the panty, where it is protected by the absorbent layer from such fluids. (Col. 2, ll. 43-48)

In contrast to McCoy, the method of independent claim 1 targets infection. Infection is neither disclosed nor suggested by McCoy. Applicant respectfully disagrees with the Examiner's assertion that the prevention or reduction of swelling or edema equates to the inhibition of infection. Although swelling and edema may in some cases be symptoms of infection, treating symptoms is not the same as treating the underlying condition. Furthermore, McCoy's only disclosure of swelling and edema relates only to the side effects of surgical or other trauma.

The method of claim 1 further requires a *rapid* temperature change. Many of the physiological mechanisms believed to underlie the efficacy of embodiments of the instant invention rely to some extent on a "shock" to various metabolic systems, achieved by the *rapidity* of localized temperature changes, as well as the extent of such changes. Rapid temperature changes are believed by the Applicant to, among other things, decrease a pathogen's rate of replication, denature proteins, constrict blood vessels, and otherwise inhibit certain natural pathways and physiological responses, in contrast to McCoy's stated purpose of relieving pain and discomfort, and reducing swelling and edema (Col. 3, ll. 48-52). McCoy neither suggests nor discloses a rapid temperature change and the configuration of McCoy's device indicates that no such rapid change is possible, due to the placement of an absorbent layer between the cold pack and the target area.

Claim 1 also requires the *assessing* of a suspected area *for occurrence of*

infection after causing and then discontinuing a rapid temperature change. As previously stated, McCoy neither suggests nor discloses the inhibition of infection. McCoy further fails to disclose or suggest any assessing of a suspected area of infection, or any discontinuation of a rapid temperature change based on such an assessment.

In view of the above, independent claim 1 is patentable over McCoy. Claims 2-7, which depend from claim 1, are allowable for at least these same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 8-17 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,066,164, issued to Macher et al. (“Macher”). This rejection is respectfully traversed.

Macher discloses a device for heating a skin surface. The Macher device includes a flat heat transfer element comprising at least one heating element formed of a plastic film and connected via a cable to a portable power supply apparatus. The Macher device preferably includes circuitry for regulating the flow of power between the heating element and an energy supply device. The device is suitable wherever a “pain-relieving, relaxing or similarly pleasant effect is required.” Targeted conditions include rheumatic complaints, muscle tension, chills, menstrual complaints, nerve pain, and whiplash. Furthermore, the device may be utilized to keep warm any exposed body parts, and may thus be located in shoes or gloves. (Col. 4, ll. 50-64)

In contrast to Macher, the apparatus of independent claim 8 is for inhibiting infection. Notably, there is no mention whatsoever of infection by Macher, in keeping with Macher’s stated purpose and configuration for the warming of body parts and

soothing of joint and muscle pain.

Furthermore, claim 8 requires that the heat transfer element have a surface *configured to be in close proximity* to a suspected area of infection. Such a configuration advantageously facilitates the more efficient transfer of heat energy between the claimed apparatus and a suspected area of infection. Macher fails to disclose or suggest that a *surface* of a heat transfer element is *configured* to be in close proximity to a suspected area of infection. Instead, every embodiment according to Macher includes a *flat* heat transfer element (Col. 4, ll. 64-65, and Figs. 1-3, 6-7) and there is no mention whatsoever of a suspected area of infection.

For at least these reasons, independent claim 8 is patentable over Macher. Claims 9-17, which depend therefrom, are allowable for at least these same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 18-24

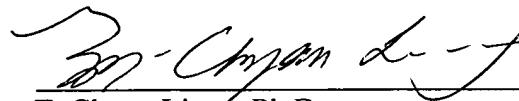
Although not addressed by the Examiner, in order to expedite prosecution of the instant application, Applicant wishes to note that both McCoy and Macher fail to disclose or suggest either the positioning of a heat transfer element in close proximity to a *suspected area of infection*, or the activation of an apparatus for inhibiting infection such that a *rapid temperature change* occurs in the suspected area of infection, as required by the method of independent claim 18. Dependent claims 19-24 are patentable over these two references for at least the same reasons. Applicant respectfully requests that the Examiner clarify the status of claims 18-24.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account No. 50-0591 (Reference No. 17090.002001).

Respectfully submitted,

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